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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TRUSTEES OF THE TEAMSTERS
LOCAL 631 SECURITY FUND FOR
SOUTHERN NEVADA,

Plaintiffs,

vs.

NEVADA READY MIX CORPORATION,
a Delaware Corporation,

Defendant.

Case No. 2:10-cv-01354-LDG-PAL

**PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION FOR
SETTLEMENT CONFERENCE**

Plaintiffs, the Trustees of the Teamsters Local 631 Security Fund for Southern Nevada (hereinafter "Security Fund"), hereby oppose Defendant Nevada Ready Mix Corporation's ("NRM") Motion for Settlement Conference ("NRM's Motion").

NRM does not cite to any rule or other authority for its Motion. If one assumes, even though NRM does not so state, that its Motion is pursuant to Local Rule 16-5, that rule is limited to "appropriate" cases for a settlement conference. This case is not yet such a case. Specifically, the Security Fund does not believe a settlement conference is appropriate or beneficial at this time. Discovery in this case has just begun and the parties have only recently exchanged initial

1 disclosures. The parties' discovery schedule was just filed a few weeks ago. (Dkt. 14.) Neither
2 party has propounded any discovery yet. Discovery is currently scheduled to continue until March
3 1, 2011. *Id.*

4 The current record, therefore, is little more than the Security Fund's demand for
5 delinquent contributions and NRM's refusal to pay the demanded amount. Thus, the Security
6 Fund intends to conduct discovery and ascertain NRM's defenses, if any. Because that has not
7 occurred yet, the Security Fund is not in position to discuss settlement.

8 Moreover, as NRM points out in its Motion, the Security Fund asked NRM to provide its
9 settlement offer to the Security Fund on October 21, 2010, but NRM failed to do so. The Security
10 Fund is not inclined to learn of NRM's position regarding settlement for the first time in a
11 settlement conference, where the only possible response will be to take it under advisement,
12 research and evaluate it.

13 While there may come a time when it is appropriate to conduct settlement negotiations,
14 first the Security Fund must conduct discovery and determine what, if any, defenses to its claims
15 exist that might justify any compromise settlement. Absent that, the Security Fund simply will not
16 settle, so there is no reason to have a settlement conference at this time.

17 Finally, NRM's concerns over accruing interest and liquidated damages are easily laid to
18 rest: NRM should simply pay any undisputed amounts now. Further, it should present the
19 Security Fund with any settlement positions or defenses for consideration now, instead of
20 awaiting to reveal its secret positions in a forced settlement conference.

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1 Based on the above, the Security Fund requests that the Court deny NRM's Motion for
2 Settlement Conference.

3 Dated this 12th day of November, 2010.

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

5 By: /s/ Dana Krulewitz

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CERTIFICATE OF SERVICE

I am employed by the law firm of Brownstein Hyatt Farber Schreck, LLP in Clark County. I am over the age of 18 and not a party to this action. My business address is 100 North City Parkway, Suite 1600, Las Vegas, Nevada 89106-4614.

On the 12th day of November, 2010, I served the document(s), described as:

PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SETTLEMENT CONFERENCE

☐ by placing the ☐ original ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

☒ a. **ECF System** (*You must attach the "Notice of Electronic Filing", or list all persons and addresses and attach additional paper if necessary*)

Norman H. Kirshman, Esq.
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Attorney for Defendant

☐ b. **BY U.S. MAIL.** I deposited such envelope in the mail at Las Vegas, Nevada. The envelope(s) were mailed with postage thereon fully prepaid. I am readily familiar with Brownstein Hyatt Farber Schreck, LLP's practice of collection and processing correspondence for mailing. Under that practice, documents are deposited with the U.S. Postal Service on the same day which is stated in the proof of service, with postage fully prepaid at Las Vegas, Nevada in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date stated in this proof of service.

☐ c. **BY PERSONAL SERVICE.**

☐ d. **BY DIRECT EMAIL**

☐ e. **BY FACSIMILE TRANSMISSION**

I declare under penalty of perjury that the foregoing is true and correct.

By: /s/ Kathleen Bratton
An Employee of Brownstein Hyatt Farber Schreck, LLP

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